

FCC MAIL SECTION

Federal Communications Commission

DA 99-442

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Before the
Federal Communications Commission
DISPATCHED BY Washington, D.C. 20554

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MM Docket No. 98-70
Table of Allotments,)	RM-9276
FM Broadcast Stations.)	
(Clinton and Okarche, Oklahoma))	

REPORT AND ORDER
(Proceeding Terminated)

Adopted: February 24, 1999

Released: March 5, 1999

By the Chief, Allocations Branch:

1. At the request of Tyler Broadcasting Corporation ("petitioner"), the Commission has before it the Notice of Proposed Rule Making, 13 FCC Rcd 10269 (1998), proposing the substitution of Channel 294C2 for Channel 294C1 at Clinton, Oklahoma, the reallocation of Channel 294C2 from Clinton to Okarche, Oklahoma, as the community's first local aural service, and the modification of Station KCLI-FM's license to specify Okarche as its community of license. Petitioner filed comments reiterating its intention to apply for the channel, if reallocated to Okarche. No other comments were received.

2. As stated in the Notice, petitioner seeks to provide Okarche, an incorporated community with a 1990 Census population of 1,160 persons, with its first local aural service under the provisions of Section 1.420(i) of the Commission's Rules. While Okarche is smaller in population than Clinton (population 9,298), we proposed the change of community since it could result in the provision of a first local aural service at Okarche while Clinton would continue to receive local aural service from AM Station KCLI and FM Station KGMX as well as reception service from at least five fulltime aural services. In addition, the downgrade and change of community could enable Station KCLI-FM to increase the population it serves to a total of 446,015 persons. The Notice pointed out that the change of community and channel would result in a loss of service to 54,423 persons within a 7,796 square kilometer area, but that, according to the petitioner, the entire loss area would continue to receive at least five fulltime aural services. Upon review, the staff has determined that adoption of the petitioner's proposal would result in the creation of an underserved population, as follows: (1) 7,590 people within a 2,311 square kilometer (893 square mile) area would receive only four fulltime aural services; (2) 2,547 people in a 1,349 square kilometer (521 square mile) area would receive only three fulltime aural services; and (3) 232 people within a 311 square kilometer (120 square mile) area would receive only two fulltime aural services. No "white" or "gray" areas would be created. We have also determined that 34 people within a 55 square kilometer (21 square miles) area would receive a third fulltime aural service, 146 people within a 147 square kilometer (57 square mile) area would receive a fourth fulltime aural service, and 436 people within a 324 square

kilometer (125 square mile) area would receive a fifth such service. Finally, as pointed out in the Notice, Station KCLI-FM, as an Okarche service, would cover less than 5% of the Oklahoma City Urbanized Area with a 70 dBu signal.

3. We believe the public interest would be served by substituting Channel 294C2 for Channel 294C1 at Clinton, reallocating Channel 294C2 from Clinton to Okarche, and modifying the license of Station KCLI-FM to specify Okarche as its community of license. While we recognize that there will be a loss of service experienced by 54,423 persons, all but 10,369 people will continue to receive at least five fulltime aural services and the majority of the remaining 10,369 people will receive at least four such services, with no population being reduced to either none or only one such service. Therefore, we believe that the Commission's allotment priorities will be furthered by granting petitioner's request.¹

4. Channel 294C2 can be allotted to Okarche in compliance with the Commission's minimum distance separation requirements with a site restriction of 2.8 kilometers (1.7 miles) east to accommodate petitioner's desired transmitter site.²

5. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective April 19, 1999, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the communities listed below, to read as follows:

<u>City</u>	<u>Channel No.</u>
Clinton, Oklahoma	238C2
Okarche, Oklahoma	294C2

6. Pursuant to Commission Rule Section 1.1104(1)(k) and (2)(k), any party seeking a change of community of license of an FM or television allotment or an upgrade of an existing FM allotment, if the request is granted, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Tyler Broadcasting Corporation, licensee of Station KCLI-FM, is required to submit a rule making fee in addition to the fee required for the applications to effect the change in community of license and/or upgrade.

7. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of Tyler Broadcasting Corporation for Station KCLI-FM,

¹ The allotment priorities are: (1) first fulltime aural service; (2) second fulltime aural service; (3) first local aural service; (4) other public interest matters. Priorities (2) and (3) are given co-equal weight. See Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1982).

² The coordinates for Channel 294C2 at Okarche are 35-43-08 North Latitude; 98-00-09 West Longitude.

IS MODIFIED to specify operation on Channel 294C2, in lieu of Channel 294C1, and specify Okarche, Oklahoma, in lieu of Clinton, Oklahoma, as its community of license, subject to the following conditions:

- (a) Within 90 days of the effective date of this Order, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301).
- (b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620.
- (c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

8. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

9. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau